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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: SOMERSET COUNTY  
DOCKET NO. L-980-97

GAF CORPORATION,

Plaintiff,

v.

HARTFORD ACCIDENT &  
INDEMNITY COMPANY *et al.*,

Defendants.

Civil Action

**CASE MANAGEMENT ORDER  
NUMBER 5**

THIS MATTER coming on for a Case Management Conference on July 16, 1999 before  
the Honorable Robert E. Guterl, in the presence of all counsel of record; and good cause  
appearing;

IT IS on this 23<sup>rd</sup> day of July, 1999,

**ORDERED** that the parties shall comply with the following case management  
provisions:

**I. Deposition Scheduling**

A. The parties shall conduct a minimum of four (4) depositions per month, for an  
average of at least one deposition per week.

B. GAF Corporation ("GAF") and defendants shall meet and confer no later than July 26, 1999 to prepare a deposition schedule consistent with Paragraph I.A above. GAF and defendants jointly shall submit to the Court this deposition schedule in a separate proposed Order under the five-day rule. Any disputes regarding the scheduling of such depositions shall be brought to the Court's attention through letters outlining the dispute with a request for a telephonic conference or for permission to file a motion. If the parties do not meet the requirements of Paragraph I.A above, then the Court may cut off depositions and/or end discovery.

C. The parties shall use their best efforts to locate witnesses and to provide deposition dates promptly to opposing parties. If, despite its continuing good faith efforts, a party cannot locate a non-party witness within twenty (20) <sup>calendar</sup>~~business~~ days after an opposing party requests that witness' deposition, then within twenty (20) <sup>calendar</sup>~~business~~ days after the deposition is requested, the searching party shall advise the other parties of the status of its efforts to contact the witness and to obtain dates and, if known, shall provide the other parties with the witness' last known address, place of employment and telephone number.

D. Any party may issue a subpoena for the deposition of any former employee of whom a deposition has been requested if the party for whom the employee had worked has not provided available deposition dates for the employee within twenty (20) <sup>calendar</sup>~~business~~ days after the deposition is requested. The deposition shall go forward on the date specified in the subpoena unless the parties consent to an alternate date or the witness can show good cause to the Court why he/she cannot appear on the date specified in the subpoena.

## **II. Document Production**

GAF shall produce to defendants, no later than August 16, 1999, outstanding documents under the Court's May 21, 1999 Orders.

## **III. Statement of Past Damages and Periodic Updates**

GAF shall produce to defendants, no later than July 30, 1999, an updated statement of damages, limited to past costs and expenses, for each of the Selected Sites. GAF shall update the statement of damages every 180 days thereafter. This Paragraph supercedes and replaces Paragraph II.C of Case Management Order Number 1.

## **IV. Motions**

1. Defendant Commercial Union Insurance Company may move for reconsideration of the Court's April 1, 1999 Order.
2. GAF may move for a protective order concerning depositions related to the Linden site.
3. The Court will decide on the papers GAF's motion for additional bad faith discovery and defendants' motion to sever GAF's bad faith claims.

## **V. Case Management Conference**

The Court shall hold a Case Management Conference on October 22, 1999 at 3:00 p.m. to determine the status of proceedings under this Order. Plaintiff, on the one hand, and defendants jointly, on the other hand, shall submit to the Court separate "status letters" at least three (3) days prior to the Conference.

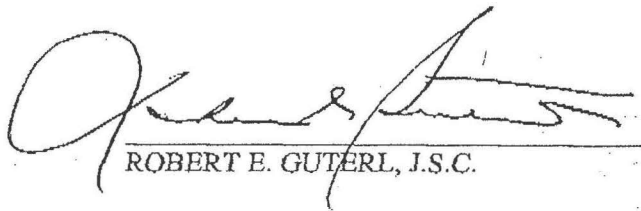
## **VI. Prior Case Management Orders**

Except as amended by this Order, all provisions of Case Management Orders Numbers 1, 2, 3 and 4 remain in effect.

**IT IS FURTHER ORDERED** that this Order may be amended or supplemented by:

(a) the Court, upon motion of any party; and (b) agreement of all parties, subject to Court approval.

**IT IS FURTHER ORDERED** that a copy of this Order be served on all counsel within seven (7) days of the date hereof.



ROBERT E. GUTERL, J.S.C.